

SENATE BILL 2586

By Campfield

AN ACT to amend Tennessee Code Annotated, Title 25,
relative to offers of judgment.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 25, is amended by adding Sections 2 through 8 as a new chapter thereto.

SECTION 2.

(a) At any time more than ten (10) days before the trial begins, a party may serve upon the adverse party an offer to allow judgment pursuant to Rule 68 of the Tennessee Rules of Civil Procedure to be taken against the party making such offer for the money or property specified in the offer with costs then accrued. For the purposes of this chapter, costs shall include:

- (1) Court costs;
- (2) Reasonable deposition costs;
- (3) Reasonable fees for not more than two (2) testifying expert witnesses;
- (4) Court reporter fees
- (5) Pre-judgment interest; and
- (6) Reasonable attorney's fees.

(b) An offer of judgment may include all or a portion of the costs prescribed in subsection (a). If a cost is not specified in the offer of judgment then it shall not be considered as part of such offer of judgment.

(c) If an offer of judgment is made by a defendant and rejected by a plaintiff in such action and the judgment rendered at trial is less than eighty percent (80%) of what was in the

offer of judgment, then such plaintiff shall be liable to defendant for the costs accrued after the making of the offer of judgment. Costs shall include those expenses specified in subsection (a).

(d) If an offer of judgment is made by a plaintiff and rejected by a defendant in such action and the judgment rendered at trial is more than one hundred twenty percent (120%) of what was in the offer of judgment, then such defendant shall be liable to plaintiff for the costs accrued after the offer of judgment. Costs shall include those expenses specified in subsection (a).

SECTION 3. An offer of judgment shall:

(1) Be in writing;

(2) State that it is made pursuant to this chapter and Rule 68 of the

Tennessee Rules of Civil Procedure;

(3) State the terms by which the claim may be settled;

(4) State a deadline by which the offer of judgment must be accepted;

(5) Be served on all parties to whom the settlement offer is made; and

(6) Only address the pending litigation and not any other potential claims.

SECTION 4. A conditional acceptance of an offer of judgment that contains terms or conditions that are materially different from the original offer is a counteroffer that terminates the ability to accept the original offer.

SECTION 5. When an action has more than one (1) plaintiff or defendant, offers of judgment shall provide for an individual offer of judgment to each party and shall provide for individual acceptance without the consent of other parties affected by such offer of judgment.

SECTION 6. This chapter shall only apply to courts of record. A "court of record" means any circuit or criminal court in this state.

SECTION 7. This chapter does not apply to:

(1) Class action suits;

- (2) A shareholder's derivative action;
- (3) An action by or against a governmental body;
- (4) A domestic relations matter;
- (5) Worker's compensation cases; or
- (6) Cases in which the plaintiff has employed legal counsel based upon a contingency fee arrangement.

SECTION 8. All persons appealing from the decision of a trial court in a civil matter to any court having jurisdiction of the matter shall execute a bond for the costs of the suit. Such bond shall be for one percent (1%) of the cost of such appeal or twenty thousand dollars (\$20,000), whichever is more. The cost of an appeal shall include the appellee's expenses, including attorneys' fees, for such appeal.

SECTION 9. The Tennessee supreme court is urged to expedite the hearing of appeals under one hundred thousand dollars (\$100,000).

SECTION 10. This act shall take effect July 1, 2012, the public welfare requiring it.